

Amendment No. 1 to HB1020

Marsh
Signature of Sponsor

AMEND Senate Bill No. 1086

House Bill No. 1020*

by deleting 66-38-104 in Section 1 and substituting the following:

66-38-104.

(a) Except as otherwise provided in this section, a local governing body shall not prohibit or effectively prohibit the use of property as a short-term rental unit.

(b) Notwithstanding subsection (a), a local governing body may:

(1) Enact, maintain, or enforce a local law that regulates property used as a short-term rental unit if the primary purpose of the local law is to protect the public's health and safety and if the law does not prohibit or effectively prohibit the use of a property as a short-term rental unit; or

(2) Apply a local law that regulates land use to a short-term rental unit in the same manner as other residential dwellings. This subdivision (b)(2) includes local laws concerning residential use and other zoning matters, noise, property maintenance, and nuisance.

(c) Notwithstanding subsection (a), a local governing body may limit or prohibit the use of a short-term rental unit to prohibit or restrict the:

(1) Housing of sexual offenders;

(2) Operation as a residential treatment facility licensed under title 33, chapter 2, part 4 or similar facility;

(3) Selling of illegal drugs;

(4) Selling of beer or alcoholic beverages or other activity that requires a permit or license under title 57; or

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(5) Operation as an adult-oriented establishment pursuant to title 7, chapter 51.

AND FURTHER AMEND by deleting 66-38-103(a) in Section 1 and substituting the following:

(a) An online short-term rental unit marketplace shall notify a short-term rental unit provider that lists a short-term rental unit on the digital platform provided by the online short-term rental unit marketplace that it is recommended that the short-term rental unit provider inquire as to the coverage and exemptions under the provider's homeowner's or renter's insurance policy imposed by the provider's insurance company upon short-term rental activities.

AND FURTHER AMEND by deleting the amendatory language in Section 3 and substituting the following:

(d) A municipality may levy the tax described in subsections (a), (b), and (c) on a short-term rental unit provider, as defined by § 67-11-101, if:

(1) The tax is levied in the same amount and manner for operators of hotels that are not short-term rental units, as defined by § 67-11-101, as it is for operators of hotels that are short-term rental unit providers; and

(2) On and after January 1, 2019, the municipality permits collection and remittance as set out in title 67, chapter 11, which allows an online short-term rental unit marketplace, as defined by § 67-11-101, to collect and remit the tax.

AND FURTHER AMEND by deleting the amendatory language in Section 5 and substituting the following:

(d) A municipality may levy the tax described in this section on a short-term rental unit provider, as defined in § 67-11-101, if:

(1) The tax is levied in the same amount and manner for operators of hotels that are not short-term rental units, as defined by § 67-11-101, as it is for operators of hotels that are short-term rental unit providers; and

(2) On and after January 1, 2019, the municipality permits collection and remittance as set out in title 67, chapter 11, which allows an online short-term rental unit marketplace, as defined by § 67-11-101, to collect and remit the tax.

AND FURTHER AMEND by deleting subsection (b) in Section 6 and substituting the following:

(b)

(1) Any tax authorized to be levied by any city, town, or county on the privilege of occupancy of a hotel pursuant to any ordinance, resolution, or private act, enacted or modified prior to, on, or after, January 1, 2019, must be levied in the same amount and manner for operators of hotels as it is for short-term rental unit providers, as defined by § 67-11-101.

(2) On and after January 1, 2019, the city, town, or county must permit an online short-term rental unit marketplace, as defined by § 67-11-101, to collect and remit the tax as set out in title 67, chapter 11.

AND FURTHER AMEND by deleting Section 12 and substituting the following:

SECTION 12. Tennessee Code Annotated, Section 67-6-205(c)(1), is amended by deleting the language "inn" and substituting the language "short-term rental unit provider, as defined by § 67-11-101, inn".

AND FURTHER AMEND by deleting the language "subdivisions (a)(1), (a)(3), (a)(4) and (a)(5)" in 67-11-102(b) in Section 14 and substituting the language "subsection (a)".

AND FURTHER AMEND by adding the following language at the end of 67-11-102(b) in Section 14:

An election pursuant to subsection (a) shall be effective only with respect to time periods during which the department is responsible for the collection of the taxes set forth in subsection (a) pursuant to § 67-11-103(a). The short-term rental unit marketplace shall maintain records in accordance with § 67-1-113.

AND FURTHER AMEND by deleting the language "subdivisions (a)(1), (a)(3), (a)(4) and (a)(5)" in 67-11-102(c) in Section 14 and substituting the language "subsection (a), or to the auditing of such taxes,".

AND FURTHER AMEND by deleting 67-11-103 in Section 14 and substituting the following:

67-11-103.

(a) Within ninety (90) days after this act becomes effective as described in subsection (b) in the effective date section of this act, a local governing body imposing any tax set forth in § 67-11-102(a)(1)-(4) with respect to any short-term rental may elect, in a manner prescribed by the department, to continue to administer all such taxes. If a local governing body adopts or is authorized to impose any tax set forth in § 67-11-102(a)(1)-(4) after this act becomes effective as described in subsection (b) in the effective date section of this act, the local governing body may make such election, or amend a previous election, within thirty (30) days after the adoption or enactment of such tax. If a local governing body does not make such election, or amend a previous election, within the time prescribed, the taxes set forth in § 67-11-102(a) and imposed by the local governing body shall be collected by the department, as provided in this chapter, and administered in the same manner as provided in chapter 6 of this title with respect to the sales and use tax.

(b) Within ninety (90) days after this act becomes effective as described in subsection (b) in the effective date section of this act, unless a local governing body has made an election under subsection (a), the local governing body must furnish the department a certified copy of each resolution, ordinance, public act, or private act adopting or authorizing the local governing body to impose the taxes set forth in § 67-11-

102(a)(1), (a)(2), (a)(3), and (a)(4) and inform the department of the applicable rate and the effective date of that rate. If a local governing body adopts or is authorized to impose any tax set forth in § 67-11-102(a)(1), (a)(2), (a)(3), and (a)(4) after this act becomes effective as described in subsection (b) in the effective date section of this act, unless a local governing body has made an election under subsection (a), or amended a previous election, it must furnish such certified copies and information to the department within thirty (30) days after the effective date of the adoption or enactment of such tax. The department shall not be obligated to collect any local taxes specified in § 67-11-102(a)(1)-(4) if a local governing body does not provide information in accordance with this section.

(c) The department shall publish and maintain a list of all taxes it collects pursuant to § 67-11-102 and the applicable rates of tax.

AND FURTHER AMEND by adding the language "that are administered by the department" after the language "collect and remit the taxes set out in § 67-11-102(a)" in 67-11-104(1) in Section 14.

AND FURTHER AMEND by deleting subdivision (2) in 67-11-104 in Section 14 and renumbering subdivision (3) as new subdivision (2).

AND FURTHER AMEND by deleting 67-11-106 in Section 14 and substituting the following:

67-11-106.

All taxes collected pursuant to this chapter must be collected and remitted by the online short-term rental unit marketplace, and administered by the department, in the same manner as provided by chapter 6 of this title. Online short-term rental unit marketplaces that collect the taxes set out in § 67-11-102(a) are subject to the administration and enforcement provisions of chapter 6, parts 4 and 5 of this title, and chapter 1, parts 8, 14, and 18 of this title.

AND FURTHER AMEND by deleting 67-11-107 in Section 14 and substituting the following:

67-11-107.

The sales tax collected pursuant to this chapter shall be distributed in accordance with allocations pursuant to chapter 6 of this title. The local taxes, specified in § 67-11-102(a)(1)-(4), collected pursuant to this chapter shall be distributed on a monthly basis by the department to the applicable local governing body in which the short-term rental unit was located and the tax was collected. The department may deduct an administrative fee of one and one hundred twenty-five thousandths percent (1.125%) of the collected taxes specified in § 67-11-102(a)(1)-(4) to cover its expenses of administering the collection and distribution of the tax.

AND FURTHER AMEND by deleting Sections 7 and 10 and renumbering the remaining sections accordingly.

AND FURTHER AMEND by deleting the effective date section and substituting the following:

SECTION ____.

(a) Except for the provision labeled § 67-11-101, Section 12 of this act shall take effect January 1, 2019, the public welfare requiring it.

(b) All other sections in this act, including the provision labeled § 67-11-101, shall take effect upon becoming a law, the public welfare requiring it.